

1 BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
2 OF THE STATE OF MONTANA

3 In the Matter of the Application of)
4 Yellowstone County for) MEMORANDUM
5 Approval of Amendments to) AND ORDER
6 Its Local Air Pollution)
7 Control Program.)

8 **MEMORANDUM**

9 **Background**

10 1. Yellowstone County (the County) has filed an application with the Board of
11 Environmental Review (Board) seeking approval of amendments to the County's local air
12 pollution control program. The Board conducted a public hearing to consider the County's
13 application at the Board's public meeting on June 7, 2002, in Helena, Montana.

14 2. The County operates a local air pollution control program approved by the Board.
15 The program was first approved by the Board's predecessor, the Montana Board of Health and
16 Environmental Sciences, on January 10, 1970.

17 3. The program is known as the Yellowstone County Air Pollution Control Program
18 (the Program).

19 4. The Program encompasses the entire geographic area of Yellowstone County,
20 including the Cities of Billings and Laurel and the Township of Broadview.

21 5. The County seeks approval of amendments to the Program. A copy of the
22 provisions proposed to be amended is attached to this Order as Exhibit A. A copy of the
23 Program is attached as Exhibit B.

24 6. The amendments include amending the definition of the phrase "public nuisance"
to conform to the definition of that phrase in state statute, updating a reference in the open

1 burning regulation to the Department of Environmental Quality's solid waste rules, and repealing
2 the County's emergency episode plan.

3 7. After publishing notice to the public, and after a public hearing, the Billings City
4 Council, Broadview Town Council, and Laurel City Council approved the amendments.

5 8. After publishing notice to the public, and after a public hearing, the Yellowstone
6 County Air Pollution Control Board and the Yellowstone County Board of County
7 Commissioners approved the amendments.

8 9. The Program provides for requirements compatible with those imposed by the
9 Clean Air Act of Montana and rules adopted under that act.

10 10. The proposed amendments would not make the Program more stringent than
11 comparable state or federal air quality regulations or guidelines.

12 11. The Program provides for enforcement of its requirements by appropriate
13 administrative and judicial processes.

14 12. The Program provides for administrative organization, staff, financial resources,
15 and other resources necessary to effectively and efficiently carry out the program.

16 13. Implementation of the Program, as proposed to be amended, is not intended in
17 any way to interfere with retention of jurisdiction by the Montana Department of Environmental
18 Quality over those emission sources and activities not expressly subject to County jurisdiction.

19 14. Under Mont. Code Ann. § 75-2-301(3)(a), the Board, by order, may approve a
20 local air pollution control program that:

21 a. provides by ordinance or local law for requirements compatible with, more
22 stringent than, or more extensive than those imposed by Sections 75-2-203, 75-2-204, 75-2-211,
23 75-2-212, 75-2-215, 75-2-217 through 75-2-219, and 75-2-402, MCA, and rules adopted under
24 these sections;

23 b. provides for enforcement of requirements by appropriate administrative and
judicial processes; and

1 c. provides for administrative organization, staff, financial resources, and other
2 resources necessary to effectively and efficiently carry out the program.

3 15. The Program satisfies the requirements for approval set forth in Mont. Code Ann.
4 § 75-2-301(3)(a).

5 16. The Program has been approved in accordance with Mont. Code Ann. § 75-2-
6 301(1) and (2).

7 17. Adequate notice to the public and the opportunity for public participation has
8 been provided in accordance with Mont. Code Ann. Title 2, chapter 3, part 1.

9 **ORDER**

10 1. The Board hereby approves the amendment of the Yellowstone County Air
11 Pollution Control Program, as set forth in Exhibit A.

12 2. The Department shall assume or retain control over any other air pollutant sources
13 regulated under the Clean Air Act of Montana that are not covered by the Yellowstone County
14 Air Pollution Control Program.

15 DATED this _____ day of _____, 2002.

16 **BOARD OF ENVIRONMENTAL REVIEW**

17
18 By: _____
19 JOSEPH W. RUSSELL, M.P.H.,
20 Chairperson
21
22
23
24